

TRANSPORTATION REPORT

From: Terry Whiteside

To: The Montana Wheat & Barley Committee

Date: June 5, 2009



Agreement Reached on Senate Rail Legislation Package

Earlier this week, Sen. Jay Rockefeller (D-WV), Chairman of the Commerce, Science and Transportation Committee, and Sen. Herb Kohl (D-WI), sponsor of the railroad antitrust legislation, reached an agreement to work together to combine two potential pieces of rail legislation in one package as it moves through the Senate.

This agreement is a key development for captive shippers and was uncertain as recently as last week. The antitrust legislation, which would remove some of the antitrust exemptions of the railroad industry and thus presumably allow competition, had been approved by the Judiciary Committee and was ready for a floor vote. However, most captive shipper groups agree that removing the antitrust exemptions does not address some of the more immediate problems caused by escalating rates and deteriorating service. Staff of the Commerce, Science and Transportation Committee is currently drafting legislation similar to the Rail Competition and Service Improvement Act of 2007 (H.R. 2125 / S 953) introduced in the last session of Congress. Some captive shippers feared that if the antitrust legislation were approved by Congress, it would create a false sense that a solution has been achieved and thus close the door on any possible further rail legislation. The Alliance for Rail Competition (ARC) actively worked with the Senate staff and other shipper groups to encourage the compromise that has now been achieved.

Sen. Rockefeller and Sen. Kohl sent the attached letter to their Senate colleagues announcing their intention to combine the railroad antitrust legislation and the STB reform legislation currently being drafted by Sen. Rockefeller's staff on the Commerce, Science and Transportation Committee.

While much attention in the Commerce Committee is being focused on providing service improvement to captive shippers, ARC has been actively working to include the Final Offer Arbitration (FOA) provision in the bill as key means of addressing rate issues for captive shippers. ARC and National Association of Wheat Growers have also been working on provisions to give standing to farmer producers and Attorney Generals in transportation proceedings. As the committee staff is working on the bill, it is critically important that individual shippers contact their Senators and urge them to work with colleagues to have FOA included in the STB reform legislation to provide shippers with a venue to achieve reasonable rate relief. Particularly, if your state has a Senator on the Commerce Committee (list below), please contact them as soon as possible.

Sen. Jay Rockefeller (WV) – Chair

Sen. Daniel Inouye (HI)
Sen. John Kerry (MA)
Sen. Byron Dorgan (ND)
Sen. Barbara Boxer (CA)
Sen. Bill Nelson (FL)
Sen. Maria Cantwell (WA)
Sen. Frank Lautenberg (NJ)
Sen. Mark Pryor (AR)
Sen. Claire McCaskill (MO)
Sen. Amy Klobuchar (MN)
Sen. Tom Udall (NM)
Sen. Mark Warner (VA)
Sen. Mark Begich (AR)

Sen. Kay Bailey Hutchison (TX) –
Ranking Member

Sen. Olympia Snowe (ME)
Sen. John Ensign (NV)
Sen. Jim DeMint (SC)
Sen. John Thune (SD)
Sen. Roger Wicker (MS)
Sen. Johnny Isakson (GA)
Sen. David Vitter (LA)
Sen. Sam Brownback (KS)
Sen. Mel Martinez (FL)
Sen. Mike Johanns (NE)

United States Senate

WASHINGTON, DC 20510

June 1, 2009

Dear Colleagues,

We wanted to let you know that we have jointly decided to ask Senator Reid to withdraw the pending cloture petition on S. 146, the Railroad Antitrust Enforcement Act. We share the common goals of addressing the longstanding concerns of rail shippers and making the rail industry more competitive.

The Commerce and Judiciary Committees intend to work together on comprehensive rail competition legislation. We hope to shortly have a bipartisan package that reforms the Surface Transportation Board and repeals the railroads' antitrust exemption available for the consideration by the full Senate. We are working on harmonizing our two efforts to produce a robust reform package.

This is a high priority for both of us and we are absolutely committed to finding real solutions that can be enacted into law this year.

Sincerely,



John D. Rockefeller IV
Chairman
Committee on Commerce,
Science, and Transportation



Herb Kohl
Chairman
Antitrust Subcommittee,
Judiciary Committee